

ESTTA Tracking number: **ESTTA235959**Filing date: **09/10/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Roscoe M Moore III
Granted to Date of previous extension	09/10/2008
Address	1111 Army Navy Dr, Suite 1203Suite 1203 Arlington, VA 22202 UNITED STATES
Party who filed Extension of time to oppose	PeerSat
Relationship to party who filed Extension of time to oppose	PeerSat is wholly-owned by Roscoe M Moore III. This opposition is directed towards the priority and likelihood of confusion associated with the WEATHER HD and HD WEATHER marks that are also owned by Roscoe M Moore III.

Correspondence information	PeerSat 1111 Army Navy Dr, Suite 1203Suite 1203 Arlington, VA 22202 UNITED STATES rmoore@peersat.com Phone:703-553-0270
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Applicant Information

Application No	77193495	Publication date	05/13/2008
Opposition Filing Date	09/10/2008	Opposition Period Ends	09/10/2008
Applicant	WEATHER DECISION TECHNOLOGIES, INC. 5 NORTH HAMILTON STREET P.O. BOX 855 MIDDLEBURG, VA 20118 UNITED STATES		

Goods/Services Affected by Opposition

Class 042.

Opposed goods and services in the class: HIGH DEFINITION WEATHER SERVICES, NAMELY, WEATHER FORECASTING, WEATHER DETECTING, WEATHER REPORTING, PROVIDING WEATHER INFORMATION BY MEANS OF COMPUTER DATABASES AND VIA A GLOBAL COMPUTER INFORMATION NETWORK AND VIA WIRED AND WIRELESS ELECTRONIC COMMUNICATION DEVICES

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3086331	Application Date	03/25/2004
Registration Date	04/25/2006	Foreign Priority Date	NONE
Word Mark	WEATHER HD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 2004/11/08 First Use In Commerce: 2004/11/08 Electronic delivery of images, pictures, video, and other data describing or displaying the earth's weather and environment which can be used for weather forecasting and weather reporting via a global computer network</p> <p>Class 042. First use: First Use: 2004/11/08 First Use In Commerce: 2004/11/08 Displaying images, pictures, video, and other data of others describing or displaying the earth's weather and environment which can be used for weather forecasting and weather reporting via a global computer network</p>		

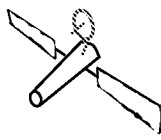
U.S. Registration No.	3161100	Application Date	06/29/2005
Registration Date	10/17/2006	Foreign Priority Date	NONE
Word Mark	HD WEATHER		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 2003/09/02 First Use In Commerce: 2003/09/02 Electronic delivery of images, pictures, video, and other data describing or displaying the earth's weather and environment which can be used for weather forecasting and weather reporting via a global computer network</p> <p>Class 042. First use: First Use: 2003/09/02 First Use In Commerce: 2003/09/02 Displaying images, pictures, video, and other data of others describing or displaying the earth's weather and environment which can be used for weather forecasting and weather reporting via a global computer network</p>		

Attachments	78390731#TMSN.jpeg (1 page)(bytes) 78661210#TMSN.jpeg (1 page)(bytes) PeerSat_USPTO_Opposition_Claim_Sept2008.pdf (3 pages)(109039 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/Roscoe M Mooore III/
Name	Roscoe M Moore III
Date	09/10/2008



UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

P.O. Box 1451

Alexandria, VA 22313-1451

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

Serial No. 77193495

Roscoe M. Moore III v. Weather Decision Technologies Inc.

Opposition No. _____

Notice of Opposition

Roscoe M. Moore III is an INDIVIDUAL residing at 1111 Army Navy Dr, Suite 1203,
Arlington, VA 22202.

Weather Decision Technologies Inc. is a corporation with business address of North Hamilton
Street, P.O. Box 855, Middleburg, VA 20118.

309.03 (b) Standing

(1) If registered, the applicant's CLEARPOINT HD WEATHER mark can damage the continued use of the petitioner's previously filed and used marks in U.S. Registrations No. 3,086,331 for WEATHER HD and No. 3,161,100 for HD WEATHER, because of a likelihood of confusion. 37 CFR 2.112(a).

(2) If registered, the applicant's CLEARPOINT HD WEATHER mark can also damage petitioner's priority in filing its applications with the USPTO and in bringing its marks to use. The petitioner has reasonable belief that it may be refused registration of its HD WEATHER mark, because of applicant's potential registration of CLEARPOINT HD WEATHER. 37 CFR 2.112(a).

309.03 (c) Grounds

Section 2(d) of the Act, 15 U.S.C. 1052 (2) The applicant's mark is likely to cause confusion.

309.03 (d) Remedy under Section 18

Oppose registration in whole or in part of applicant's mark.
Further:

WHEREAS, The petitioner filed for its marks and brought its marks into use before the applicant's CLEARPOINT HD WEATHER mark was filed with the USPTO and brought into use and the petitioner has priority.

WHEREAS, Roscoe M. Moore III is the owner of Federal Registration No. 3086331 for WEATHER HD as applied to services in International Classes 038 and 042.

WHEREAS, Roscoe M. Moore III is the owner of Federal Registration No. 3161100 for HD WEATHER as applied to services in International Classes 038 and 042.

WHEREAS, Roscoe M. Moore III has used WEATHER HD since at least November 11, 2004, and will continue to use this mark;

WHEREAS, Roscoe M. Moore III has used HD WEATHER since at least September 2, 2003 and will continue to use this mark;

WHEREAS, Weather Decision Technologies Inc. (WDT) has filed a trademark application Serial No. 77193495 for the CLEARPOINT HD WEATHER trademark, for use in connection with services in International Class 42

WHEREAS, WDT originally filed a trademark application for the CLEARPOINT HD WEATHER trademark under the 1B Intend to Use Filing Basis on May 30, 2007;

WHEREAS, WDT has potentially used CLEARPOINT HD WEATHER since as early as the year 2007.

WHEREAS, the recitation of services for applicant's CLEARPOINT HD WEATHER under International Class 42 is as follows:

HIGH DEFINITION WEATHER SERVICES, NAMELY, WEATHER FORECASTING, WEATHER DETECTING, WEATHER REPORTING, PROVIDING WEATHER INFORMATION BY MEANS OF COMPUTER DATABASES AND VIA A GLOBAL COMPUTER INFORMATION NETWORK AND VIA WIRED AND WIRELESS ELECTRONIC COMMUNICATION DEVICES.

WHEREAS, the recitation of services for petitioner's HD WEATHER under International Class 42 is as follows:

DISPLAYING IMAGES, PICTURES, VIDEO, AND OTHER DATA OF OTHERS DESCRIBING OR DISPLAYING THE EARTH'S WEATHER AND ENVIRONMENT WHICH CAN BE USED FOR WEATHER FORECASTING AND WEATHER REPORTING VIA A GLOBAL COMPUTER NETWORK.

WHEREAS, Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant's mark, when used on or in connection with the identified services, so resembles the mark in U.S. Registration No. 3,086,331 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 et seq. See the enclosed registration.

WHEREAS, as originally stated by the United States Patent and Trademark Office (USPTO), under Trademark Act Section 2(d), 15 U.S.C. §1052(d), the applicant's mark for CLEARPOINT HD WEATHER, when used on or in connection with the identified services, so resembles this petitioner's mark in U.S. Registration No. 3,086,331 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 et seq. The applicant's mark for CLEARPOINT HD WEATHER is also likely to confuse, to cause mistake, or to deceive petitioner's mark in U.S. Registration No. 3,161,100.

WHEREAS, as originally stated by the United States Patent and Trademark Office (USPTO), the marks are similar because both include HD WEATHER. Applicant's identification of services is so broad as to include registrant's services. Likelihood of confusion is determined on the basis of the goods or services as they are identified in the application and the registration. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001 (Fed. Cir. 2002); *In re Shell Oil Co.*, 992 F.2d 1204, 26 USPQ2d 1687, 1690 n.4 (Fed. Cir. 1993); *J & J Snack Foods Corp. v. McDonald's Corp.*, 932 F.2d 1460, 18 USPQ2d 1889 (Fed. Cir. 1991); *Octocom Systems Inc. v. Houston Computer Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783 (Fed. Cir. 1990). Since the identification of the applicant's services is very broad, it is presumed that the application encompasses all services of the type described, including those in the registrant's more specific identification, that they move in all normal channels of trade and that they are available to all potential customers. TMEP §1207.01(a)(iii).

Sincerely

Roscoe M. Moore III
/Roscoe M. Moore III/
September 10, 2008

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703-553-0270